

AMENDED IN SENATE JUNE 23, 1997
AMENDED IN SENATE JUNE 16, 1997
AMENDED IN ASSEMBLY APRIL 15, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 807

Introduced by Assembly Member Scott

February 26, 1997

An act to amend ~~Section~~ *Sections 264.2 and 679.04* of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 807, as amended, Scott. Sexual assault: victim's support.

(1) Existing law requires a law enforcement officer, or his or her agency, to immediately notify the local rape victim counseling center whenever a victim of an alleged violation of specified sex offenses is transported to a hospital for examination, and the victim approves of that notification.

This bill instead would require the law enforcement officer, or his or her agency, to immediately notify the local rape victim counseling center whenever a victim of an alleged violation of specified sex offenses is transported to a hospital for any medical evidentiary or physical examination. The bill would also provide that the victim shall have the right to have a sexual assault victim counselor and at least one other support person of the victim's choosing present at any medical

evidentiary or physical examination, and that notice of this right shall be provided orally or in writing to the victim by the attending medical provider prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault.

(2) Existing law provides that a victim of sexual assault or spousal rape has the right to have a sexual assault victim counselor and at least one additional support person chosen by the victim present at any evidentiary, medical, or physical examination or interview by law enforcement authorities or defense attorneys.

This bill would revise the above provision to provide that the victim has a right to have victim advocates present at ~~the above specified times, which times would be revised to include medical evidentiary or physical examinations and interviews~~ any interview by law enforcement authorities, district attorneys, or defense attorneys. The bill would also provide that prior to the commencement of any initial ~~medical evidentiary or physical examination,~~ law enforcement interview; or attorney contact, the victim shall be notified orally or in writing by the attending ~~medical provider,~~ law enforcement authority; or district attorney that the victim has the right to have victim advocates, as well as a support person of the victim's choosing, present at the ~~examination,~~ interview; or contact. By imposing increased duties on local criminal justice systems that are equivalent to those imposed by the establishment of a new crime, this bill would impose a state-mandated local program.

~~(2)~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(3)~~

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. *Section 264.2 of the Penal Code is amended to read:*

264.2. (a) Whenever there is an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the “Victims of Domestic Violence” card, as specified in paragraph (5) of subdivision (i) of Section 13701 of the Penal Code.

(b) (1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for *any medical evidentiary or physical examination, and the victim approves of that notification. Should there be more than one rape victim counseling center in the local area, the victim shall select the center to be notified. The victim shall have the right to have a sexual assault victim counselor, as defined in Section 1035.2 of the Evidence Code, and at least one other support person of the victim’s choosing present at any medical evidentiary or physical examination.*

(2) *Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, a victim shall be notified orally or in writing by the attending medical provider that the victim has the right to have present a sexual assault victim counselor and at least one other support person of the victim’s choosing.*

(3) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

SEC. 2. Section 679.04 of the Penal Code is amended to read:

679.04. (a) A victim of sexual assault, as defined in subdivisions (a) and (b) of Section 11165.1, or spousal rape has the right to have victim advocates and at least one other support person of the victim’s choosing present

1 ~~at any medical evidentiary or physical examination or at~~
2 ~~any~~ interview by law enforcement authorities, district
3 attorneys, or defense attorneys. As used in this section,
4 “victim advocate” means a sexual assault victim
5 counselor, as defined in Section 1035.2 of the Evidence
6 Code, or a victim advocate working in a center
7 established under Article 2 (commencing with Section
8 13835) of Chapter 4 of Title 6 of Part 4.

9 (b) Prior to the commencement of any initial ~~medical~~
10 ~~evidentiary or physical examination~~, law enforcement
11 interview; or attorney contact pertaining to any civil or
12 criminal action arising out of a sexual assault, a victim of
13 sexual assault or spousal rape shall be notified orally or in
14 writing by the attending ~~medical provider~~, law
15 enforcement authority; or district attorney that the
16 victim has the right to have victim advocates, as well as
17 a support person of the victim’s choosing, present at the
18 ~~examination~~, interview; or contact.

19 ~~SEC. 2.~~

20 SEC. 3. No reimbursement is required by this act
21 pursuant to Section 6 of Article XIII B of the California
22 Constitution because the only costs that may be incurred
23 by a local agency or school district will be incurred
24 because this act creates a new crime or infraction,
25 eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition
28 of a crime within the meaning of Section 6 of Article
29 XIII B of the California Constitution.

30 Notwithstanding Section 17580 of the Government
31 Code, unless otherwise specified, the provisions of this act
32 shall become operative on the same date that the act
33 takes effect pursuant to the California Constitution.

34 ~~SEC. 3.~~

35 SEC. 4. This act is an urgency statute necessary for the
36 immediate preservation of the public peace, health, or
37 safety within the meaning of Article IV of the
38 Constitution and shall go into immediate effect. The facts
39 constituting the necessity are:

1 The failure to provide notice to a victim of sexual assault
2 that he or she has a right to have a certified sexual assault
3 advocate as well as a support person of the victim's
4 choosing present at specified examinations, interviews, or
5 attorney contacts relating to the sexual assault has led to
6 many unfortunate situations. In order to remedy this
7 situation as soon as possible, it is necessary that this act go
8 into immediate effect.

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